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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/576,008

04/14/2006

Robert John Saunders

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04/16/2010

Edwards Vacuum, Inc.

2041 MISSION COLLEGE BOULEVARD

SUITE 260

SANTA CLARA, CA 95054

EXAMINER

TRAN, HANH VAN

ART UNIT

PAPER NUMBER

3637

NOTIFICATION DATE

DELIVERY MODE

04/16/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LORETTA.SANDOVAL@EDWARDSVACUUM.COM

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/576,008 | Applicant(s) SAUNDERS, ROBERT JOHN | |
| | Examiner HANH V. TRAN | Art Unit 3637 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/16/2010 has been entered.

Claim Objections

2. Claim 16 is objected to because of the following informalities: line 1, "any of claim 12" should be "claim 12". Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3, 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Since amended claim 1 is now recited at least one pipe through which coolant fluid passes in use, the recitation in claims 3 and 13 of "a heat exchange mechanism" and "at least one pipe for coolant fluid flow", respectively, renders the respective claim indefinite for failing to clearly define whether said heat exchange mechanism of claim 3 is the same or different from the coolant fluid of claim 1, and said at least one pipe for coolant fluid flow of claim 13 is the same or different from the pipe of claim 1.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 6-15 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,291,838 to Ferchau et al.

Ferchau discloses a pump enclosure comprising all the elements recited in the above listed claims including a base 38, a cover 28, a plurality of pillars 26 detachably connected at one end thereof to the base and at the other end thereof to the cover, wherein at least one of the plurality of pillars comprising interconnected extrusions defining therebetween a housing, a pump control circuitry disposed in the housing, wherein the extrusions are formed from thermally conductive metal material of aluminum, the base being formed from sheet metal and welded structural tubing, at least one of the extrusions is profiled to receive at least one pipe (col. 3, lines 23-31 and col.4, lines 52-64), wherein the extrusions comprise a plurality of apertures, and at least one corner pillar having a substantially L-shaped extrusion providing an outer wall for the corner pillar, the base is profiled to receive (at 84) at least one pipe for either fluid or cables.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferchau in view of Marzec.

Ferchau discloses all the elements as discussed above except for clearly disclosing the pump control circuitry comprising a printed circuit board assembly and the base comprising a plurality of interconnected metal extrusions.

However, Marzec teaches the idea of providing an electrical enclosure comprising a base, a cover, a plurality of pillars connected to the base and cover, at least one of the pillars comprising interconnected metal extrusions defining therebetween a housing and a pump control circuitry 40/180 disposed in the housing, wherein the pump control circuitry is inherent including a printed circuit board assembly for controlling/programming purpose, wherein the base comprising a plurality of interconnected metal extrusion for heat dissipation. Therefore, it would have been obvious to modify the structure of Ferchau by providing the pump control circuitry with a printed circuit board assembly for controlling/programming purpose, wherein the base comprising a plurality of interconnected metal extrusion for heat dissipation, as taught

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by Marzec, since both teach alternate conventional electrical enclosure, classified in the same U.S. classification 312, thereby providing structure as claimed.

Response to Arguments

10. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HANH V. TRAN whose telephone number is (571)272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell M. Jayne can be reached on (571) 272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT
April 12, 2010

/Hanh V. Tran/
Primary Examiner, Art Unit 3637